

August 6, 2002

Federal Communications Commission
Office of the Secretary
Room TW-A325
445 Twelfth Street SW
Washington, DC 20554

Re: **Reply Comments, CC Docket No. 02-33**
Appropriate Framework for Broadband Access
to the Internet over Wireline Facilities

Dear Ms. Salas:

The National Council on Disability hereby submits its reply comments in the proceedings under Docket No. 02-33.

The National Council on Disability (NCD) is an independent federal agency making recommendations to the President and Congress on issues affecting all Americans with disabilities. NCD is composed of 15 members appointed by the President and confirmed by the U.S. Senate. NCD's overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all individuals with disabilities, regardless of the nature or severity of the disability; and to empower individuals with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

In June, 2001, NCD released its report, *The Accessible Future*. Among other things, the report found that access to electronic and information technology (E&IT) is a civil right and there is a need for a national accessibility policy. NCD included issues related to enforcement by the Federal Communications Commission of Section 255 of the Telecommunication Act of 1996. In that report, NCD issued an appeal to the Federal Government, private industry, and consumers to join forces to increase access to E&IT for people with disabilities.

NCD is interested in the promises and prospects that accessible broadband holds for people with disabilities. Section 255 calls for telecommunications products and services to be accessible to and useable by people with disabilities, if readily achievable, and if not readily achievable, to be compatible with adaptive technologies. NCD believes that broadband should be accessible and usable by Americans with disabilities regardless of the platform (e.g., wireless, wireline) on which it is to be offered to the public. Therefore, NCD is acutely concerned that the FCC in its NPRM is considering a proposed decision to regard broadband as 'information services,' in effect partitioning Section 255 applicability to broadband. NCD does not believe that the FCC's proposed effect is consistent with Congressional intent, nor is it in the best interests of 54 million Americans with disabilities.

Additionally, NCD is concerned with the equating of "information services" with "broadband." The FCC has taken the position that Section 255 does not apply to information services. We disagree with this interpretation, but whether or not it is accurate, we caution against a ruling that would automatically and dramatically expand the scope of noncovered services.

Until now, the FCC appears to have accepted that covered "telecommunications services" and covered "adjunct-to-basic services" include all those that are necessary for the making, completing and receiving of voice calls. A rule defining all broadband as exempt from Section 255 would result in an increasing proportion of voice telephony being excluded from the coverage of Section 255, since broadband technology is being used to carry a growing proportion of voice-telephony traffic.

Thank you for the opportunity to comment.

Sincerely,

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